

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

LUIS MANUEL GARCES,

Plaintiff,

v.

GAVIN NEWSOM, et al.,

Defendants.

No. 2:23-CV-1997-DMC-P

ORDER

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the Court is Plaintiff's original complaint. See ECF No. 1.

The Court is required to screen complaints brought by litigants who, as here, have been granted leave to proceed in forma pauperis. See 28 U.S.C. § 1915(e)(2). Under this screening provision, the Court must dismiss a complaint or portion thereof if it: (1) is frivolous or malicious; (2) fails to state a claim upon which relief can be granted; or (3) seeks monetary relief from a defendant who is immune from such relief. See 28 U.S.C. §§ 1915(e)(2)(A), (B).

Moreover, pursuant to Federal Rule of Civil Procedure 12(h)(3), this Court must dismiss an action if the Court determines that it lacks subject matter jurisdiction. Pursuant to Rule 12(h)(3), the Court will also consider as a threshold matter whether it has subject-matter jurisdiction.

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I. PLAINTIFF'S ALLEGATIONS

Plaintiff Luis Manuel Garces ("Plaintiff") is a current inmate at California State Prison, Corcoran ("CSPC"). Plaintiff names the following Defendants: (1) Gavin Newsom, California State Governor ("Defendant Newsom"); (2) Ralph M. Diaz, Former Secretary of California Department of Corrections and Rehabilitation ("CDCR") ("Defendant Diaz"); (3) Kathleen Allison, California State Prison Director ("Defendant Allison"); (4) S. Alfaro ("Defendant Alfaro"); (5) C. Vanenburg, California Corrections Institution Specialist at CDCR ("Defendant Vanenburg"); (6) B. Moak, employee of CDCR ("Defendant Moak"); (7) S. Smith, employee of CDCR ("Defendant Smith"); (8) Redmon, employee of Kern Valley State Prison ("KVSP") ("Defendant Redmon"); (9) J. Sherman, employee of CSPC ("Defendant Sherman"); (10) Duran, employee of CSPC ("Defendant Duran"); (11) Quezada, employee of CSPC ("Defendant Quezada"); (12) Kirby, employee of KVSP ("Defendant Kirby"); and (13) R. Hernandez ("Defendant Hernandez"). See ECF No. 1, at 1-4. Plaintiff's first cause of action is deliberate indifference to a prison condition against Defendant Newsom and Defendant Diaz. See id. at 5. Plaintiff then generally asserts all Defendants collectively violated Plaintiff's constitutional rights to be free from cruel and unusual punishment and in Defendants' conspiracy to cause Plaintiff harm. See id. at 13. Lastly, Plaintiff includes factual allegations of Defendant Quezada allegedly violating Plaintiff's constitutional right by failing to prevent excessive force and sexual assault. See id. at 12.

A. Background

Plaintiff asserts that since January of 2008, Plaintiff has suffered constant threats of stabbings from gang members at CSPC. See id. at 28. Plaintiff states he repeatedly requested to be moved to a facility away from these gang members but was denied. See id. Plaintiff subsequently appealed this decision to the second level of review, to be transferred to High Desert State Prison. See id. at 29. Plaintiff alleges prison records were suppressed in July of 2014 and that he was forced into new housing circumstances. See id. Later, Plaintiff was wrongly accused of fighting with his inmate and transferred to a housing unit with an alleged gang member. See id. On February 23, 2015, Plaintiff was allegedly assaulted by this inmate. See id. In 2016,

1 Plaintiff claims CDCR personnel knowingly moved Plaintiff to a new housing assignment with
2 another alleged gang member. See id. at 30. In 2017, Plaintiff requested a new housing
3 assignment and was denied. See id. From 2017 through 2018, Plaintiff alleges Defendants
4 engaged in the later described conspiracy to hide information validating Plaintiff's safety
5 concerns and CDCR alleged improper housing assignments. See id. at 30-31.

6 **B. Allegations Against Defendants**

7 1. Defendants Newsom, Diaz, and Allison

8 Plaintiff claims Defendant Newsom knowingly failed to supervise CSPC
9 employees and their creation of illegitimate prison rules. See id. at 5. Plaintiff claims he was
10 intentionally housed with violent inmates and wrongfully charged with a Rules Violation Report
11 ("RVR") 115. See id. Furthermore, Plaintiff alleges Defendant Diaz knowingly allowed
12 sergeants and wardens to create their own policies and customs. See id. Similarly, Plaintiff
13 alleges Defendant Allison also knowingly permitted this harm to Plaintiff and separately on
14 March 8, 2019, ordered Plaintiff to be housed with the use of force. See id. at 6. Plaintiff claims
15 Defendant Allison's actions caused Plaintiff to suffer two assaults, on June 12, 2019, and
16 November 5, 2021, from CDCR authorities and the wrongful charge of RVR 115. See id.

17 2. Defendants Alfaro and Moak

18 Plaintiff further asserts that Defendant Alfaro violated his constitutional rights, in
19 Defendant Alfaro's participation in the creation of allegedly false testimony that supported
20 Defendant Allison's decision to house Plaintiff. See id. at 7. Plaintiff also alleges Defendant
21 Moak violated his rights in providing Defendant Allison false information regarding the violent
22 nature of inmates at Plaintiff's proposed housing unit. See id. Therefore, Plaintiff claims
23 Defendant Moak's actions also resulted in the June 12, 2019, and November 5, 2021, assaults.
24 See id. at 8.

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1 3. Defendants Seibel, Sherman, Smith, and Redmon

2 Plaintiff has also alleged Defendant Seibel provided false information and failed to
3 review Plaintiff's personnel files when deciding how to advise on the decision of Plaintiff's
4 housing location. See id. at 9. Specifically, that these actions resulted in the covering of evidence
5 demonstrating a threat to Plaintiff's life. See id. Additionally, Plaintiff alleges Defendant
6 Sherman violated Plaintiff's rights by providing false statements on May 8, 2020, to intentionally
7 discredit violent threats Plaintiff faced. See id. at 10. Plaintiff also asserts that Defendant Smith
8 participated the above-mentioned conspiracy with other members of leadership at CDCR. See id.
9 at 11.

10 Next, Plaintiff claims Defendant Smith subjected Plaintiff to false imprisonment
11 for a period of about two months on a falsified quarantine status. See id. As a result of
12 Defendant Smith's actions and Defendant Redmon's actions, Plaintiff was subjected to physical
13 assaults and constant harassment through food contaminations. See id.

14 4. Defendants Duran, Martinez, and Quezada

15 Plaintiff argues Defendant Duran also failed to protect Plaintiff by failing to move
16 his housing placement after knowing alleged safety risks to Plaintiff. See id. Specifically,
17 Plaintiff states Defendant Duran, with Defendant Martinez and Defendant Quezada, had Plaintiff
18 moved on April 5, 2021. See id. Plaintiff also alleges Defendant Duran voluntarily distributed
19 Plaintiff's personal information to other inmates. See id.

20 Plaintiff also asserts Defendant Quezada harassed Plaintiff at his housing unit and
21 instigated other inmates to cause harm to Plaintiff. See id. at 12. On November 5, 2021, Plaintiff
22 alleges Defendant Quezada violated Plaintiff's rights to be free from excessive force and sexual
23 assault. See id. Specifically, that Defendant Quezada performed sexual acts on Plaintiff's back
24 and choked Plaintiff. See id.

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1 **C. Request for Relief**

2 Plaintiff alleges these violations have caused him mental stress, physical injury,
3 loss of education opportunities, and loss of inmate facility program opportunities. See id. at 12-
4 25. Plaintiff requests injunctive relief, compensatory damages of \$20,000 from each Defendant,
5 and punitive damages of \$40,000 against each Defendant. See id.

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7 **II. DISCUSSION**

8 Plaintiff's complaint suffers multiple defects. Specifically, Plaintiff has not
9 asserted sufficient factual allegations to establish the liability of Defendant Newsom, Defendant
10 Diaz, and Defendant Allison. Additionally, Plaintiff's complaint suffers from a lack of
11 allegations beyond mere conclusions and vague assertions connecting the remaining Defendants
12 to any constitutional violations.

13 **A. Supervisory Personnel**

14 Supervisory personnel are generally not liable under § 1983 for the actions of their
15 employees. See Taylor v. List, 880 F.2d 1040, 1045 (9th Cir. 1989) (holding that there is no
16 respondeat superior liability under § 1983). A supervisor is only liable for the constitutional
17 violations of subordinates if the supervisor participated in or directed the violations. See id. The
18 Supreme Court has rejected the notion that a supervisory defendant can be liable based on
19 knowledge and acquiescence in a subordinate's unconstitutional conduct because government
20 officials, regardless of their title, can only be held liable under § 1983 for his or her own conduct
21 and not the conduct of others. See Ashcroft v. Iqbal, 556 U.S. 662, 676 (2009). Supervisory
22 personnel who implement a policy so deficient that the policy itself is a repudiation of
23 constitutional rights and the moving force behind a constitutional violation may, however, be
24 liable even where such personnel do not overtly participate in the offensive act. See Redman v.
25 Cnty of San Diego, 942 F.2d 1435, 1446 (9th Cir. 1991) (en banc).

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1 When a defendant holds a supervisory position, the causal link between such
 2 defendant and the claimed constitutional violation must be specifically alleged. See Fayle v.
 3 Stapley, 607 F.2d 858, 862 (9th Cir. 1979); Mosher v. Saalfeld, 589 F.2d 438, 441 (9th Cir.
 4 1978). Vague and conclusory allegations concerning the involvement of supervisory personnel in
 5 civil rights violations are not sufficient. See Ivey v. Board of Regents, 673 F.2d 266, 268 (9th
 6 Cir. 1982). “[A] plaintiff must plead that each Government-official defendant, through the
 7 official’s own individual actions, has violated the constitution.” Iqbal, 662 U.S. at 676.

8 Here, Plaintiff asserts claims against Defendant Newsom, Defendant Diaz, and
 9 Defendant Allison. See ECF No. 1, at 1-4. In Defendant Newsom’s role as California State
 10 Governor, Defendant Diaz’s role as Former Secretary of CDCR, and Defendant Allison’s role as
 11 CSP Director, these Defendants are supervisory personnel. To state a cognizable claim, each
 12 defendant must have personally acted in violation of the Constitution or Plaintiff’s statutory rights
 13 because respondeat superior is not a cognizable theory under § 1983. Plaintiff has not alleged
 14 facts indicating these defendants’ personal involvement in the alleged violations of Plaintiff’s
 15 rights. Plaintiff will be provided an opportunity to amend consistent with the standards outlined
 16 above.

17 **B. Causal Link**

18 To state a claim under 42 U.S.C. § 1983, the plaintiff must allege an actual
 19 connection or link between the actions of the named defendants and the alleged deprivations. See
 20 Monell v. Dep’t of Social Servs., 436 U.S. 658 (1978); Rizzo v. Goode, 423 U.S. 362 (1976). “A
 21 person ‘subjects’ another to the deprivation of a constitutional right, within the meaning of
 22 § 1983, if he does an affirmative act, participates in another’s affirmative acts, or omits to perform
 23 an act which he is legally required to do that causes the deprivation of which complaint is made.”
 24 Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978). Vague and conclusory allegations
 25 concerning the involvement of official personnel in civil rights violations are not sufficient. See
 26 Ivey v. Board of Regents, 673 F.2d 266, 268 (9th Cir. 1982). Rather, the plaintiff must set forth
 27 specific facts as to each individual defendant’s causal role in the alleged constitutional
 28 deprivation. See Leer v. Murphy, 844 F.2d 628, 634 (9th Cir. 1988).

1 1. Defendants Alfaro and Moak

2 In this case, Plaintiff's complaint fails to assert facts sufficiently alleging a
3 connection between the remaining Defendants and violations of his rights. In the instance of
4 Defendant Alfaro, Plaintiff fails to explain, beyond vague and conclusory statements, what false
5 testimony Defendant Alfaro provided and how it resulted in a subsequent violation of Plaintiff's
6 constitutional rights. Similarly, Plaintiff fails to explain what information Defendant Moak
7 provided and how this information resulted in a violation of Plaintiff's rights. For example,
8 Plaintiff's complaint must explain, in greater detail than a simple conclusion, how Plaintiff's
9 allegations regarding Defendant Moak are connected to Plaintiff's allegation of assaults.

10 2. Defendants Seibel, Sherman, Smith, and Redmon

11 Similarly, Plaintiff has failed to explain how Defendant Seibel provided false
12 testimony and the details of the alleged failure to review Plaintiff's personnel records. Moreover,
13 Plaintiff should include additional factual allegations explaining how his housing assignment
14 determination constitutes a violation of his constitutional rights. Regarding Defendant Sherman,
15 Plaintiff's claims are similarly inadequate. Plaintiff has not explained how Defendant Sherman
16 intended to discredit any threats to Plaintiff or the validity of these alleged violent threats.

17 Plaintiff's claims against Defendant Smith are also defective. Plaintiff must allege
18 specific actions or omissions that connect Defendant Smith to Plaintiff's alleged false
19 imprisonment and a conspiracy against Plaintiff. The allegations against Defendant Redmon are
20 no different. These allegations lack detail and the necessary link between actions of Defendant
21 Redmon and food contaminations that amount to constitutional violations.

22 3. Defendants Duran, Martinez, and Quezada

23 Lastly, Plaintiff's claims against Defendant Duran, Defendant Martinez, and
24 Defendant Quezada fail to include necessary allegations. Specifically, Plaintiff has not presented
25 specific allegations regarding any safety risks, how each Defendant knew of these risks, and how
26 these actions constituted violations of Plaintiff's rights. Furthermore, Plaintiff's complaint lacks
27 the factual allegations explaining the specificity of his housing move and the connections each
28 Defendant had to this decision. For Defendant Quezada, Plaintiff plainly concludes that

1 Defendant Quezada has violated Plaintiff's rights barring excessive force and assaults but has not
2 explained specific facts regarding Defendant's causal role in the alleged constitutional
3 deprivations. Plaintiff cannot simply refer to Defendants' behavior in a vague and summary
4 manner. Plaintiff's complaint must include references to specific wrongful actions and set forth
5 the connection between those actions and the charged violation of Plaintiff's constitutional
6 rights. Again, Plaintiff will be provided an opportunity to amend.

8 III. CONCLUSION

9 Because it is possible that the deficiencies identified in this order may be cured by
10 amending the complaint, Plaintiff is entitled to leave to amend prior to dismissal of the entire
11 action. See Lopez v. Smith, 203 F.3d 1122, 1126, 1131 (9th Cir. 2000) (en banc). Plaintiff is
12 informed that, as a general rule, an amended complaint supersedes the original complaint. See
13 Ferdik v. Bonzelet, 963 F.2d 1258, 1262 (9th Cir. 1992). Thus, following dismissal with leave to
14 amend, all claims alleged in the original complaint which are not alleged in the amended
15 complaint are waived. See King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987). Therefore, if
16 Plaintiff amends the complaint, the Court cannot refer to the prior pleading in order to make
17 Plaintiff's amended complaint complete. See Local Rule 220. An amended complaint must be
18 complete in itself without reference to any prior pleading. See id.

19 If Plaintiff chooses to amend the complaint, Plaintiff must demonstrate how the
20 conditions complained of have resulted in a deprivation of Plaintiff's constitutional rights. See
21 Ellis v. Cassidy, 625 F.2d 227 (9th Cir. 1980). The complaint must allege in specific terms how
22 each named defendant is involved, and must set forth some affirmative link or connection
23 between each defendant's actions and the claimed deprivation. See May v. Enomoto, 633 F.2d
24 164, 167 (9th Cir. 1980); Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978).

25 Finally, Plaintiff is warned that failure to file an amended complaint within the
26 time provided in this order may be grounds for dismissal of this action. See Ferdik, 963 F.2d at
27 1260-61; see also Local Rule 110. Plaintiff is also warned that a complaint which fails to comply
28 with Rule 8 may, in the Court's discretion, be dismissed with prejudice pursuant to Rule 41(b).

1 See Nevijel v. North Coast Life Ins. Co., 651 F.2d 671, 673 (9th Cir. 1981).

2 Accordingly, IT IS HEREBY ORDERED that:

- 3 1. Plaintiff's original complaint is dismissed with leave to amend; and
- 4 2. Plaintiff shall file a first amended complaint within 30 days of the date of
- 5 service of this order.

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7 Dated: April 16, 2024



8 DENNIS M. COTA
9 UNITED STATES MAGISTRATE JUDGE

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